



Capitalising unemployment benefits



IDEATION



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Barcelona



CONTENTS

| | | |
|----|--|----|
| 01 | What is capitalisation of unemployment benefits? | 3 |
| 02 | Requirements | 4 |
| 03 | Who is eligible and how can they benefit from it? | 5 |
| 04 | Starting an economic activity while in receipt of unemployment benefit | 9 |
| 05 | Application documents and procedures | 10 |
| 06 | Further information | 11 |



01

What is capitalisation of unemployment benefits?

Capitalisation of unemployment benefits means receiving as a lump sum either all or some – depending on the type – of a person's contribution-based unemployment benefit. It is aimed at people wishing to start up a new activity as self-employed individuals and who want to either establish a stable business as working members of new or existing cooperatives or employee-owned companies or use the amount received to make a contribution to the share capital of a commercial company that is either new or was created no more than twelve months before the contribution.

02

Requirements

- You must be unemployed. This means that you must not be affiliated under the social security system when applying for the capitalisation.
- You must be in receipt of contribution-based unemployment benefit or have already applied for it and have been granted it.
- You must have at least three months of unemployment benefit still outstanding. Individuals who are entitled to the benefit for cessation of an activity must have at least six months of benefit remaining.
- You must not have capitalised any unemployment benefit within the four years immediately before the application.
- If the capitalisation requested is to be paid in a lump sum, the professional activity to be carried out must be one of the following:
 - Starting an activity on a self-employed basis – as a sole trader.
 - Creating and joining a cooperative or a commercial or employee-owned company, where you will work under an indefinite contract rather than a temporary one.
 - Joining a cooperative or employee-owned company, where you will work under an indefinite contract rather than a temporary one, provided that you have not been previously employed by the organisation in question for a period of more than 24 months.
- Starting work within a maximum of one month following receipt of the money and always after the application.
- If you receive the benefit as a lump sum, you can neither receive any other unemployment benefits until after an amount of time equal to the one taken into account for the capitalisation of the benefit nor apply for another capitalisation until after at least four years.
- Individuals who have worked on a self-employed basis while receiving contribution-based unemployment benefit in the 24 months immediately preceding their application for a lump-sum payment will not be entitled to the lump sum for establishing themselves as self-employed workers or freelancers as members of a commercial company.

03

Who is eligible and how can they benefit from it?

There are two different ways to obtain the capitalisation of unemployment benefit, depending on your personal circumstances and the type of company involved (see “New developments applicable from 10 October 2015”, under Act 31/2015, of 9 September, amending and updating the self-employment legislation and adding measures to foster and promote self-employment).

In either case, you must start the activity within no more than one month after the decision to grant the request, and in any event on a date after that of the application.

1. SINGLE ADVANCE PAYMENT: You receive a single advance payment for the outstanding benefit, to be used towards the business start-up expenses or the cost of joining the cooperative or the commercial or employee-owned company. The maximum amount you can receive is the amount established as contributions to capital. The legal interest rate laid down in the General State Budget Act will be deducted from this.

AS A SELF-EMPLOYED INDIVIDUAL:

You must use up to 100% of the capitalisation towards the initial investment, regardless of age.

You must apply for it before registering for business tax (IAE), making your census declaration and registering with the social security system as a self-employed individual.

AS A WORKING MEMBER OF A COMMERCIAL COMPANY that is either new or was created no more than 12 months before the contribution:

You can make a contribution to the share capital of any kind of new commercial company provided that you have effective control of the company and you use the capitalisation to cover the incorporation costs and the costs of obtaining specific advisory, training and information services.

Furthermore, you can use up to 15% of the capitalised benefit to pay for specific advisory, training and information services relating to the activity you are undertaking.

AS A WORKING MEMBER IN A STABLE JOB IN A COOPERATIVE OR EMPLOYEE-OWNED COMPANY:

You can apply for, and obtain as a lump sum, the amount payable by way of contribution to the share capital, cooperative entrance fee or price of acquisition of shares or a holding in the company. No future disbursements or deferred payments may be covered by the capitalisation.

You must make the application before joining the cooperative or company.

2. REFUNDS OF SOCIAL SECURITY CONTRIBUTIONS ON ACCOUNT OF THE OUTSTANDING CONTRIBUTION-BASED BENEFIT:

Under this option, you receive a percentage of the outstanding benefit, and the rest is used to pay the applicable monthly social security contributions. You must submit documentary proof of payment of your social security contribution for the month in which the activity starts.

- In all the permitted capitalisation methods, if you do not obtain the total amount of your benefit in a lump sum in accordance with the previous sections, you can simultaneously request the payment of the remaining amount as a subsidy for your social security contributions while carrying out your economic activity. Payments will be made monthly.
- It is possible to request to only receive the full amount of your outstanding benefit to subsidise your social security contributions as a worker. Payments will be made monthly.

3. UNDER BOTH OF THE ABOVE OPTIONS

If you choose to capitalise your benefit under only one of the first two options, you cannot apply for the other option once you have started the activity.

EXAMPLE 1.

AN INDIVIDUAL WANTS TO START A SELF-EMPLOYED ACTIVITY

Imagine Pep wants to open a clothing store as a sole trader and is currently in receipt of unemployment benefit with twelve months of benefit left, amounting to €10,000. If he started his activity now, he would pay social security contributions for the minimum amount under the self-employment scheme.

Under payment option 1, under which the money is paid at the beginning, he could receive 100% of this benefit; i.e. €10,000, and he would then have to submit invoices proving that he had invested this amount.

Under options 1 and 2, if Pep was only able to provide invoices for €6,000, the remaining 40%; i.e. €4,000, would remain as a fund from which his social security contributions for self-employed workers would be gradually deducted each month until it ran out.

EXAMPLE 2.

TWO INDIVIDUALS WANT TO CREATE A PRIVATE LIMITED COMPANY (SL)

Imagine that Veronica and Josep, both of whom are unemployed, decide to set up a private limited company in which they each have equal holdings. Of the two, Josep is still in receipt of unemployment benefit, of which he has fourteen months left. If capitalised, this would amount to €16,000. If he started his activity now, he would pay social security contributions for the minimum amount under the self-employment scheme.

Option 1: Veronica and Josep could capitalise €16,000 as the commercial company's share capital, provided that they have effective control of it.

Option 2: The €16,000 would remain as a fund from which their social security payments for self-employment workers would be deducted each month until it ran out.

EXAMPLE 3.

THREE PEOPLE FORM A COOPERATIVE OR AN EMPLOYEE-OWNED COMPANY

Imagine that three unemployed people, Veronica, Josep and Amaia, decide to create a private limited employee-owned company in which they each have equal holdings. They each provide 33% of the capital (€39,000), which is €13,000 per person, and they pay social security contributions under the general scheme.

Veronica is entitled to €12,000 in unemployment benefit. She has fourteen months of benefit left.

Josep is entitled to €13,000 in unemployment benefit. He has ten months of benefit left.

Amaia is entitled to €14,000 in unemployment benefit. She has six months of benefit left.

HOW CAN THEY CAPITALISE THEIR UNEMPLOYMENT BENEFIT?

The amount to which Veronica is entitled is less than the contribution she needs in order to join as a member, because she can only receive €12,000 and she needs €13,000. She can capitalise 100% of her contribution-based benefit. In addition, she will have to find some other way to contribute the remaining €1,000, for example from savings or by borrowing from a family member.

Furthermore, she can obtain a subsidy in the form of reductions of up to 100% of the social security contributions made by her under the general scheme for one year and two months, which is the time during which she would have received unemployment benefit had she not received the full amount as a lump sum. The social security contribution refund will only be paid to people who have received unemployment benefit as a lump sum payment if the documents submitted are approved by the Generalitat de Catalunya's Department of Employment. In that case, every three months, the body that manages this will refund the social security contributions previously paid by her.

Josep is in the same situation as Veronica as regards his entitlement to social security reductions, but he has it easier than her when it comes to making his capital contribution to the company. The amount of money he needs to join the company is exactly the same as his outstanding unemployment benefit: €13,000. His case is simple, because all he needs to do is apply for the capitalisation of unemployment benefit as a lump sum and he can then focus on his daily work in the new cooperative. All he has to do is apply for the subsidy to receive the social security reductions, although for a shorter time than Veronica (ten months) if applicable.

Finally, as to Amaia, even if she capitalises her unemployment benefit as a lump sum, she will not be able to receive the full amount of the benefit to which she is entitled based on the number of years she has worked. Once she has paid the amount she needs to join (€13,000), she will still have an outstanding entitlement of €1,000. Amaia can use this amount of €1,000 – until it runs out – to pay her social security contributions.

04

Starting an economic activity while in receipt of unemployment benefit

The possibility of starting an economic activity while in receipt of unemployment benefit was already envisaged in Royal Decree-Law 20/2012, which was approved on February 28, 2013.

As a result of the entry into force, on October 10, 2015, of the Act for the Promotion of Self-Employment and the Social Economy:

- **People who register as self-employed will be entitled to unemployment benefit while working on a self-employed basis for nine months, regardless of their age.**
- The period for resuming unemployment benefit after starting the self-employed activity is extended from 24 to 60 months (five years) for all workers entitled to this benefit.
- During the time of receipt of unemployment benefit while carrying out an activity on a self-employed basis, the person in receipt of the benefit will not be required to comply with the obligations incumbent on job seekers.
- The preceding sections also apply to individuals in receipt of unemployment benefit who join as members of new employee-owned companies or as working members of new workers' cooperatives covered by the relevant special social security scheme applicable due to their activity as self-employed individuals if they meet the requirements set forth in the preceding sections.
- The measure envisaged in this article does not apply to any persons whose most recent occupation has been on a self-employed basis or to those who have exercised this right or obtained their unemployment benefit in a lump sum within the immediately preceding 24 months.

05

Application documents and procedures

Below are the documents to be submitted to the Catalan Unemployment Office (SOC):

- Application form.
- In the case of individuals joining existing cooperatives or employee-owned companies:
 - A certificate showing that they have applied to join and setting out the associated stable work, whether the employment is indefinite or on a probationary basis and its length, and the amount of the mandatory contribution and of any voluntary contributions if applicable, or the joining fee (although this last figure is not necessary if the individual is only applying for the social security contribution subsidy).
 - If some of the amount obtained is used to finance the voluntary contribution, the applicant must promise that this contribution will remain at the cooperative for as long as the mandatory one or for the entire time during which unemployment benefit would have been received under the standard monthly payment option.
- If new cooperatives or employee-owned companies are being created:
 - A draft of the public deed of incorporation and articles of association.
 - A report explaining the investment project and activity to be carried out, as well as any documentary proof of its viability.
 - If some of the amount obtained is used to finance the voluntary contribution, the applicant must promise that this contribution will remain at the cooperative for as long as the mandatory one or for the entire time during which unemployment benefit would have been received under the standard monthly payment option.
- If a self-employed activity is being started:
 - A report explaining the intended activity and the investment required to start it, as well as any documentary proof of its viability. Individuals applying only for the social security contribution subsidy do not need to include information about the investment in the report.
 - For people with disabilities, a certificate issued by the Institute for the Elderly and Social Services (IMSERSO) or the regional competent body providing proof that they have a degree of disability of 33% or more.

06

Further information

→ Capitalising unemployment benefits. Catalan Unemployment Office (SOC):

https://www.oficinadetreball.gencat.cat/socweb/opencms/socweb_ca/ciudadans/pres_desocup/capitalitzacio_atur.html

→ Capitalización o pago único de la prestación contributiva. Spanish Public Employment Service (SEPE):

<https://sede.sepe.gob.es/portalSedeEstaticos/flows/gestorContenidos?page=sv0500>

→ Capitalització de l'atur. Generalitat de Catalunya Business Channel:

https://canalempresa.gencat.cat/ca/01_que_voleu_fer/planificar-un-negoci/cerca-de-financament/capitalitzacio-atur/#bloc4

Produced by the Barcelona Activa team based on the following sources of information:

→ Royal Decree Law 3/2012, of 10 February, on urgent measures for the reform of the labour market. Thirteenth Final Provision.

→ Royal Decree 1300/2009, of 31 July, on urgent employment measures for self-employed workers and cooperatives and employee-owned companies.

→ Royal Decree 1413/2005, of 25 November (Official State Gazette (BOE) No. 299, of 15/12/2005), amending the Fourth Transitional Provision of Act 45/2002, of 12 December, on urgent measures for the reform of the unemployment protection system and the improvement of employability.

→ Act 45/2002, of 12 December, on urgent measures for the reform of the unemployment protection system and the improvement of employability.

→ Royal Decree 1044/1985, of 19 June (Official State Gazette (BOE) of 02/07/1985), regulating the payment of unemployment benefit as a lump sum at its current value as an employment promotion measure.

- ORDER TRE/139/2002, of 16 April, laying down the terms regulating subsidies consisting of the payment of social security contributions to workers who have capitalised their unemployment benefit.
- Royal Decree 1975/2008, of 28 November (Official State Gazette (BOE) of 02/12/2008), on the urgent measures to be adopted in relation to economic, tax and employment matters and access to housing.
- Act 2/2008, of 23 December (Official State Gazette (BOE) of 24/12/2008), on General State Budgets for 2009.
- Royal Decree Law 2/2003, of 25 April, on economic reform measures. Third Final Provision.
- Act 31/2015, of 9 September, amending and updating the self-employment legislation and adopting measures to foster and promote self-employment and the social economy.

Produced by the Barcelona Activa team

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Despite great efforts to ensure the accuracy and reliability of this information and the data contained herein, Barcelona Activa SAU SPM cannot accept any legal responsibility for the consequences of other businesses' activities resulting from the conclusions that could be drawn from this report.
